

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

BRANDYN GAYLER,

Plaintiff,

VS.

HIGH DESERT PRISON, *et al.*,

Defendants.

Case No. 2:14-cv-00769-APG-CWH

**ORDER**

Before the Court is Plaintiff Brandyn Gayler's ("Plaintiff") Motion for Discovery and Admissions (doc. # 27), filed March 9, 2015, and Defendants James G. Cox, Jerry Howell, Jennifer Nash, and Dwight Neven's ("Defendants") Response (doc. # 31), filed March 26, 2015. Plaintiff did not file a reply. Also before the Court is Defendants' unopposed Motion to Strike Response (doc. # 29), filed March 24, 2015.

## BACKGROUND

Plaintiff, proceeding pro se and in forma pauperis, is a prisoner in the custody of the Nevada Department of Corrections and currently incarcerated at the High Desert State Prison. On July 7, 2014, the Court entered a screening order finding that Plaintiff had pled sufficient facts to support his Equal Protection Clause claim. See Doc. # 6; see also Doc. # 19. Defendants filed an answer to Plaintiff's complaint on December 23, 2014. See Doc. # 21. Thereafter, this Court entered a scheduling order governing discovery in the instant case. See Doc. # 22.

## DISCUSSION

## 1. Motion for Discovery and Admissions (doc. # 27)

Plaintiff moves the Court to compel Defendants to produce various documents pursuant to

1 Rule 34 of the Federal Rules of Civil Procedure ("FRCP"). Plaintiff also moves the Court to compel  
2 Defendants to respond to interrogatories pursuant to Rule 33 of the FRCP.

3 Defendants, in response, ask the Court to deny Plaintiff's motion, claiming Plaintiff failed to  
4 satisfy the "meet and confer" requirements set forth in Local Rule 26-7 and Rule 37 of the FRCP.  
5 Defendants further point out that Plaintiff's motion is moot in light of current, ongoing discovery.  
6 Plaintiff did not reply to Defendants' opposition.

7 Because Defendants have established the mootness of Plaintiff's request, and Plaintiff has  
8 failed to rebut that showing, this Court denies the instant motion as moot.

9 **2. Motion to Strike Response (doc. # 29)**

10 Defendants move to strike doc. # 26, claiming Plaintiff couched doc. # 26 as a "motion"  
11 requesting leave to file a response to Defendants' answer, when the content of the "motion" reveals  
12 that it is actually a response to Defendants' answer. Because the Court did not order Plaintiff to file  
13 a reply to Defendants' answer, Defendants ask the Court to strike the document from the record.

14 Under Rule 7 of the FRCP, Plaintiff can file a reply to an answer only "if the court orders one."  
15 Fed. R. Civ. P. 7(a)(7). A review of doc. # 26 reveals that it is not a motion but a reply to Defendants'  
16 answer. However, even if this Court were to construe doc. # 26 as a motion to file a reply to  
17 Defendants' answer, Plaintiff fails to show why this Court should grant him leave to file a reply.  
18 Because the Court did not order Plaintiff to file a reply, this Court grants Defendants' motion and  
19 directs the Clerk of Court to strike doc. # 26 from the record.

20 **CONCLUSION AND ORDER**

21 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for Discovery and  
22 Admissions (doc. # 27) is **denied as moot**.

23 **IT IS FURTHER ORDERED** that Defendants' unopposed Motion to Strike Response (doc.  
24 # 29) is **granted**. The Clerk of Court is directed to strike doc. # 26 from the record.

25 DATED: April 21, 2015

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28 **C.W. Hoffman, Jr.**  
**United States Magistrate Judge**